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## **ARIZONA CORPORATION COMMISSION**

May 26, 2004

Mr. Chris Kempley  
General Counsel  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

### **Re: Comments to the FCC on VoIP Technology**

Dear Mr. Kempley:

Thank you for providing draft Comments to the FCC on VoIP technology prepared by your office. You and your fellow attorneys conducted a thorough review of legal precedent. I appreciate the focused legal analysis.

It is my opinion that we should take a hands-off regulatory approach to this blooming technology. Both the public and this infant industry would benefit from a predominantly deregulatory approach to VoIP services. Furthermore, the Comments this Commission submits to the FCC should focus on public policy and not get bogged down by analyzing the new technology under the rubric of old law. As Senator John Sununu said in the April 5, 2004 article in Telephone Online, *"It would be a mistake to take the legislative provisions written for copper-based, circuit-switched networks and apply them to this technology."*

### ***Focus on policy***

It is tempting to stay "inside the box" and participate in the not-so-tantalizing discussion of whether VoIP is an informational service or a telecommunications service. However, past advances in IP technology show that the distinction between these two classifications is now blurred. Our emphasis should not be to cram VoIP into one muddled classification or the other. Instead, as elected officials, our Comments should discuss the vision we have for VoIP and the people it serves.

There are several important public policy considerations at issue. First, we have a long standing position of promoting competition in telecommunications services. VoIP is another, optional telecommunications service people may choose. Not only is competition fostered by existing utilities providing new VoIP products, but new companies, like Vonage and Net2Phone are entering the telecommunications market. Second, we want people to have affordable, reliable telecommunications services. VoIP is attractive to customers because of its low cost. That's why Vonage is signing up 20,000 new customers a month. Third, the

Commission should encourage the development of new technology. Regulatory oversight increases costs. This money is better spent in the R&D Department creating better and cheaper VoIP products. Finally, the Commission should support a revitalized telecommunications market for IP technology. Companies like Lucent, Nortel and Cisco have suffered revenue shortfalls and employee layoffs because of the declining need for traditional telecommunications hardware. With VoIP, these companies now have the exciting opportunity to provide new products for the VoIP industry.

### ***No Regulation***

Regulation is appropriate to protect consumers from over reaching utilities and to ensure they receive good service. To date, we have no evidence of corporate misconduct or unhappy and stranded customers. Regulation at this early stage runs the risk of stifling or retarding the growth of this industry without a corresponding public benefit.

### ***911 Calls***

I recognize the significant public safety issue of the difference between VoIP 911 calls and E911 calls. In December 2003, the National Emergency Number Association (NENA) and the VoIP industry forged a six-point agreement to develop a plan to migrate VoIP 911 service to E911. As NENA 1<sup>st</sup> Vice President, Bill McMurray said at an April 15, 2004 speech to California NENA members, *"The Wireless 911 situation ought to have given us the lesson of what happens when technology surpasses capability...We know the hassles and headaches of interfacing the Wireless 911 network to the E911 network...Lots of engineers are busy trying to build a bridge between some very sophisticated digital wireless telephone systems and the very old CAMA trunk copper-wired analog 911 world. There is simply no way that we are going to achieve these goals through the traditional method of regulation or through the existing out dated 911 network."* I support all efforts to migrate VoIP 911 to E911 as quickly as possible. However, it is the development of new innovations, not government regulation, that will make this happen.

### ***CALEA***

Like VoIP 911, the ability for law enforcement to place wiretaps on VoIP phone calls is another public safety issue. And again like VoIP 911, resolution is found in technological advancement, not government regulation.

### ***Conclusion***

It is a rare occasion when a regulator says that he should not regulate. However, for the reasons stated above, I believe regulation at this time would be premature and would stifle

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this emerging technology. Although subscribers are "going VoIP" at a rapid rate, its membership is still just a tiny blip on the radar. We should foster this market, not squash it.

Sincerely,

A handwritten signature in cursive script that reads "Mike".

Mike Gleason  
Commissioner

c     Marc Spitzer, Chairman  
       Bill Mundell, Commissioner  
       Jeff Hatch-Miller, Commissioner  
       Kristin Mayes, Commissioner